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Response to Office Action mailed July 15, 2005
Amendment transmitted October 6, 2005

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REMARKS

1. The application was filed with 26 claims, all of which remain pending in the application. Applicants thank the Examiner for withdrawing previous rejections under 35 U.S.C. § 101 as non-statutory subject matter.

2. The Examiner is thanked for the courtesy of a telephone interview between Examiner Thomas Dixon and the undersigned on Wednesday, October 5, 2005. Claims 1, 3, 4, 15 and 23 were discussed. The Examiner admitted that the reference cited against Claims 3 and 4, a magazine article by Marjo Johne, published March, 2001, and entitled, "Picking up the pace (biometric technology in air travel)," did not disclose the limitations of Claims 3 and 4. Agreement was not reached on the claims.

3. Claims 1, 10, 11, 13, 14, and 23 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter Applicants regard as their invention.

Claims 1, 13 and 14 are rejected on the grounds that Claim 13 and 14 fail to further limit Claim 1, which requires an instruction, while Claims 13 and 14 recite that no instruction is received. Claims 1, 13 and 14 have been amended to make the claims clearer. Support for the amendments is found at least in the specification at p. 6, line 27, to p. 7, line 5.

Claims 10, 11 and 23 have also been amended to make the claims clearer. Support for the amendments is found at least in the claims as filed, and in the specification at p. 6, lines 18-26. The Examiner is respectfully requested to withdraw the rejections under 35 U.S.C. § 112, second paragraph.

4. Claims 1-9, 11-13, and 15-22 are rejected under 35 U.S.C. § 102(a) as being anticipated by a magazine article by Marjo Johne, published March, 2001, and entitled, "Picking up the pace (biometric technology in air travel)" ("Marjo"). Applicants traverse the rejections because the article does not teach all the limitations of the claims.

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Claim 1

The article by Marjo mentions certain aspects of travel and biometrics but does not teach a method as recited in Claim 1. Note that nothing in the passages cited from Marjo, lines 1-19, and 47-54, teaches international travel.

i. Marjo does not teach, for example, the Claim 1 limitation of "sending data identifying the passenger to a government or a governmental agent in a destination country." The rejection cites Marjo, page 1, lines 47-54, as teaching this step. The cited passage, however, merely states that Canadian passenger may someday be able to use Marjo's system for customs clearance. There is no teaching or suggestion of sending data identifying the passenger to a destination country, since the passage clearly states that the data will be used for customs clearance for Canadians re-entering Canada. Thus, no data needs to leave Canada and no data need be sent to Canada. The passage does not teach the recited limitation.

Marjo also teaches that in the future passengers may be issued an optical memory card which can store passenger identification and information. Marjo, page 1, lines 33-35. A fair interpretation of this teaching is that the passengers will carry the card, but this passage does not teach or suggest the step of sending data identifying the passenger to the destination country. Accordingly, Marjo does not teach or suggest the step of sending data.

ii. The rejection offers no citation for the imitation early in Claim 1 of "comparing a prior image of the passenger to the first image." The rejection does cite Marjo, lines 11-19, for the later Claim 1 limitation of "comparing the second image to a prior image of the passenger," but not for the earlier step. A fair reading of Marjo, and what Marjo teaches or suggests does not include two separate steps of comparing as recited in Claim 1. Accordingly, there is no prima facie rejection for Claim 1 since the reference does not teach or suggest all the steps of the claimed invention, and the rejection does not contend that the reference teaches all the limitations of the claimed invention.

iii. Marjo also does not teach the amended Claim 1 limitation of routing the passenger in accordance with a procedure from a government or a governmental agent. The rejection cites Marjo, p. 1 lines 12 and 47-54. The passage in line 12, however, does not teach or suggest international travel – the passage simply says that after a passenger

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arrives at the destination, the passenger breezes through the checkpoints and heads over to the car rental booth. This actually teaches against international travel, since many nations will not allow foreign visitors to drive a car without special permission. As for lines 47-54, Marjo simply teaches that Canadian citizens re-entering Canada can clear customs using biometrics. This may teach nothing more than identification of the person, and does not teach or suggest routing the passenger according to a procedure from the government or governmental agent.

Thus, Marjo does not teach or suggest at least these three limitations of Claim 1. Nevertheless, as discussed above, Claim 1 has been amended to make the claim clearer in accordance with 35 U.S.C. § 112, second paragraph. Applicants submit that Claim 1 is allowable.

Claim 3

The rejection cites Marjo, lines 11-19 as disclosing the limitations of Claim 3. Upon careful reading, however, these passages do not teach international travel, but travel generally. The passage also do not teach or suggest recording a second electronic image of the passenger, nor do they teach arrival in a destination country. It is entirely possible to conduct biometric scanning with recording a second electronic image. For instance, when Marjo's passenger in lines 11-19 looks into a camera for a couple of seconds, the camera and associated devices may make a face scan, compare the scan to a known image or face scan, and if the comparison is positive, discard the image. Lines 11-19 of Marjo do not specify what happens with the image. Thus, Marjo does not fairly teach or suggest that a second electronic image is recorded, or that it is recorded in a destination country. Claim 3 is allowable because Marjo does not teach or disclose recording the second electronic image of the passenger, nor does Marjo teach transmitting the second electronic image to a destination country.

Claim 4

Claim 4 recites that an electronic image of the passenger is recorded on an aircraft. The rejection cites Marjo, lines 33-35, stating that users will be issued optical memory card, including biometric data. There is no teaching of where the electronic image is

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recorded. The reference does not teach the claim limitations, and there is no prima facie anticipation of Claim 4, which is therefore allowable.

Claim 7

Claim 7 recites that data concerning passengers scheduled for a flight are retrieved from a first computer memory and stored in a second computer memory. The rejection cites Marjo, lines 8-10 and 33-35. Applicants assume that the rejection intends lines 8-10, teaching a passenger manifest, to refer to retrieval of information of passengers scheduled for a flight, and lines that 33-35 to refer to a second computer memory. However, lines 33-35 merely state that the users (passengers) will be issued an optical memory card with information stored on the optical memory card. The claim recites that the data, referring to data of passengers scheduled for a flight, are retrieved from a first computer memory and stored in a second computer memory. The citations in Marjo do not teach that the data in lines 8-10 are the data in lines 33-35. Accordingly, Marjo does not teach or suggest the limitations of Claim 7.

Claim 9

The rejection cites Marjo, p. 1, lines 11-12 and 17-23, as teaching the Claim 9 limitations. Lines 11-12, however, merely state that when you arrive at your destination, you just breeze through the checkpoints, and head over to the car rental booth. Lines 17-23 teach that biometrics are being used around the world, but do not teach the specific limitation that a passenger is routed according to the comparison of electronic images. Marjo does not teach the Claim 9 limitation of "routing the passenger according to a result of the comparison of the first electronic image and the subsequent image."

Claim 15

The rejection of Claim 15 on pp. 7-8 of the Office Action cites only a computer interface and a memory, a camera linked to a computer, and feature, voice or facial recognition software. See Office Action, p. 7, lines 14-19. Claim 15, however, recites many limitations besides the four cited limitations, including a second camera, a customs form stored in at least one computer memory, and several important functional limitations.

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For anticipation under 35 U.S.C. § 102, all the limitations of the claim must be found in the reference. Therefore, the Office Action does not make out a prima facie case of anticipation against Claim 15. Accordingly, Claim 15 is allowable since there is no prima facie anticipation as to Claim 15.

Claims 16-22

The Office Action does not list specific locations in the Marjo reference for the limitations of Claims 16-22. Claims 16-22 are allowable at least because they depend from allowable Claim 15. The Examiner is respectfully requested to withdraw the rejections of Claims 15-22.

5. Claim 10 is rejected under 35 U.S.C. § 103(a) as being obvious over a magazine article by Marjo Johne, published March, 2001, and entitled, "Picking up the pace (biometric technology in air travel)" ("Marjo"), in view of Official Notice. The rejection states that Marjo discloses filling out forms on a computer and sending them to an agent of the government and routing the passenger according to a government or governmental agent. The rejection takes Official Notice that it is old and well known to fill out forms and send them, and it would have been obvious to fill out a customs declaration form in Marjo's system for the benefit of increased speed of processing through the airport.

The passages cited from Marjo, lines 5-6 and 15-23, do not teach or suggest customs, nor do they teach or suggest the Claim 10 steps of filling out a custom declaration form, entering the form into a computer memory, sending the form to the government or to a governmental agency, and routing the passenger in accordance with the government or governmental agent. Accordingly, even if it is old and well known to fill out forms, the rejection does not cite, and Marjo does not teach or suggest, the other limitations of Claim 10. Accordingly, there is no prima facie rejection of Claim 10, which is therefore allowable.

6. Claim 11 is rejected under 35 U.S.C. § 103(a) as being obvious over a magazine article by Marjo Johne, published March, 2001, and entitled, "Picking up the pace (biometric technology in air travel)" ("Marjo"), in view of U.S. Pat. No. 6,698,653 to Mel

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Diamond et al. (Diamond"). The rejection admits that Marjo does not teach or suggest any of the steps of Claim 11. Office Action, p. 8, lines 26-31. The Office Action then states that Diamond does disclose these steps.

The cited passages and figures from Diamond, including Figs. 2, 6 and 9, and the text associated with those figures, however, reveal only that the baggage is inspected, not electronically inspected as recited in Claim 11. See, e.g., Fig. 6, box 79, "baggage sorting and inspection." The associated text reads merely, "the baggage is subjected to sorting and inspecting at 79." Diamond, col. 8, lines 50-51. The reference does not teach the claim limitations, and there is no prima facie anticipation of Claim 11. The Examiner is respectfully requested to withdraw the rejection of Claim 11.

7. Claim 14 is rejected under 35 U.S.C. § 103(a) as being obvious over a magazine article by Marjo Johne, published March, 2001, and entitled, "Picking up the pace (biometric technology in air travel)" ("Marjo"), in view of Applicants' disclosure. The rejection cites no passage from Marjo and admits that Marjo does not teach the limitations of Claim 14. Office Action, p. 9, lines 13-15. Claim 14 is allowable at least because it depends from allowable Claim 1.

8. Claims 23-24 are rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Pat. No. 6,044,353 to Anthony Pugliese ("Pugliese") in view of U.S. Pat. No. 6,335,688 to Clifford Sweatte ("Sweatte"). The rejection states that Pugliese discloses all the limitations of Claim 23, except for the limitation of sending the passenger from the first country to the second country, which Sweatte discloses. The rejection also states that Pugliese discloses the limitations of Claim 24.

Applicants traverse the rejections. As to Claim 23, the Office Action admits that Pugliese does not teach or suggest the steps of sending the passenger to a second country and sending the passenger to further selected processing. Sweatte teaches only that when the passenger arrives, a smart card alerts airport or security personnel that an undesirable person is in the area, so that this person can be apprehended by security or law enforcement personnel. Sweatte, Abstract. There is no suggestion in this passage of the amended Claim 23 limitation of using the identification information so that when the

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passenger arrives at the second country, the passenger is routed "to further processing selected from the group consisting of customs, immigration, and no further processing depending on an instruction from the government official of the second country."

Claim 23 is allowable because the cited art does not disclose all the limitations of the claim. The Examiner is respectfully requested to withdraw the rejection of Claim 23. Claim 24 is allowable because it depends from allowable Claim 23.

9. Claim 25 is rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Pat. No. 6,044,353 to Anthony Pugliese ("Pugliese") in view of U.S. Pat. No. 6,335,688 to Clifford Sweatte ("Sweatte"), and further in view of Official Notice. Applicants traverse the rejection. The rejection cites Pugliese, col. 3, line 62, to col. 4 (lines not specified), as teaching or suggesting filling out a form. The paragraph which begins with col. 3, line 62, simply states that a passenger may use an automatic baggage check-in machine (ABM) which may dispense a number of baggage labels according to the number of bags which the passenger wishes to check. The rejection evidently intends that this passage concerning baggage labels suggests "forms," because the rejection also admits that Pugliese does not disclose filling out customs declaration forms. Thus, the rejection admits that there is no reference that discloses the limitations of Claim 25. Instead, the rejection takes Official Notice that any type of form can be filled out and sent. Therefore, states the rejection, it would have been obvious to fill out a customs declaration form in Pugliese for the benefit of increased speed of processing through the airport.

Even if the rejection takes Official Notice that any type of form can be filled out and sent, Official Notice is not taken, and there is no teaching in Pugliese, that a customs declaration can be filled out and saved, and there is certainly no Official Notice or teaching that the form is filled out electronically. A proper combination of Pugliese and Official Notice in this instance would result in a suggestion that a baggage label may be filled out and sent. There would be no suggestion of electronically saving a customs declaration.

Accordingly, this rejection gives the appearance that both Official Notice and hindsight are being used. Hindsight seems to be used because there is no citation in the rejection for a customs form or saving a customs form electronically, and Claim 25 itself

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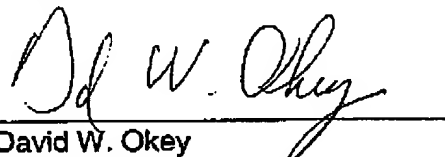
provides the mention of the customs form. Thus, the words of the application itself are being used to provide the rejection. This is hindsight.

Accordingly, the Office Action fails to make out a prima facie rejection because the references do not teach or suggest all the limitations of Claim 25. Claim 25 is allowable, and Applicants respectfully request the Examiner to allow Claim 25.

10. Claim 26 is rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Pat. No. 6,044,353 to Anthony Pugliese ("Pugliese") in view of U.S. Pat. No. 6,335,688 to Clifford Sweatte ("Sweatte") and further in view of Applicants' disclosure. The rejection admits that Pugliese does not disclose the limitations of Claim 26, but that the Abstract of Sweatte does so teach. Claim 26 is allowable at least because it depends from allowable Claim 23.

11. Each independent claim of the application, Claims 1, 15, and 23, includes at least one limitation not taught or suggested in the cited art. In addition, many of the dependent claims also are not taught or suggested in the art cited. Accordingly, the references do not teach all the limitations of the inventions recited in the claims. The Examiner is requested to reconsider the application, and to allow the claims.

Respectfully submitted,



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